

NONCONFORMING CLAUSE CERTIFICATION FILINGS NOTICE AND IMPLEMENTATION INSTRUCTIONS

On May 21, 2010, the State Office of Administrative Hearings and Rules filed with the Michigan Secretary of State:

R 500.2231 – R 500.2232, Insurance Policy Forms – Nonconforming Clauses,
http://www.state.mi.us/orr/emi/admincode.asp?AdminCode=Single&Admin_Num=50002231&Dpt=LG&RngHigh=

Filing with the Secretary of State completes the Administrative Procedures Act rule promulgation process. The rule set prohibits on and after **August 1, 2010** the use of any nonconforming clause, as defined in the rule set, in any new or renewal insurance policy, contract, rider, endorsement, or certificate form, or in any similar contract document issued, advertised, or delivered by any insurer in Michigan.

The rule set also requires each affected insurance company to submit to the Commissioner no later than **September 1, 2010**, either a list, certified as complete and accurate, of forms in effect or use in Michigan that contain one or more of the nonconforming clauses, or a letter to the Commissioner reporting and certifying that the company has no forms currently in effect or use in Michigan containing any nonconforming clauses as identified in R 500.2231 – R 500.2232.

The certifications required by this rule set need not be notarized. A certification from a person with authority to speak for the insurance company on the contents of its forms will suffice. A certification from the company (in one of the formats identified below) should include the insurer's corporate name, five-digit NAIC number, and email address OFIR may use for future communications regarding the certification and forms.

A SAMPLE CERTIFICATION OF FORMS CONTAINING NONCONFORMING CLAUSES MAY READ:

Insurance Company Letterhead
Date

I, _____[name], _____[title] certify that _____[name of company], _____[NAIC #], before August 1, 2010 issued in Michigan the following forms for the following lines of insurance on the following dates, and that each form contains on the page identified a nonconforming clause as defined in R 500.2232(1)(a), (b), or (c) of the Michigan Administrative Code.

| Form # | Page # | Line of Insurance | Type of Clause – (a), (b), or (c) | Date MI form first issued |
|--------|--------|-------------------|-----------------------------------|---------------------------|
|--------|--------|-------------------|-----------------------------------|---------------------------|

I further certify that this list is accurate and complete.

The Commissioner may direct future notices or communications regarding these forms to _____[name] at _____.[e-mail address]

Signature

A SAMPLE CERTIFICATION REPORTING NO FORMS CONTAINING NONCONFORMING CLAUSES IN EFFECT IN MICHIGAN MAY READ:

Insurance Company Letterhead

Date

I, _____[name], _____[title] certify that _____[name of company], _____[NAIC #], before August 1, 2010 and as of that date, has no policy forms in effect or use in the State of Michigan containing any nonconforming clauses as defined in R 500.2232(1)(a), (b), or (c) of the Michigan Administrative Code.

The Commissioner may direct future communications regarding this certification to _____[name] at _____.[e-mail address]

Signature

ADDITIONAL INSTRUCTIONS:

Regardless of affiliation, each insurer with an NAIC number must submit the required certification separately and independently to the Office of Financial and Insurance Regulation (OFIR) by **September 1, 2010**. In addition, pursuant to MCL 500.438, each insurer submitting a certification of forms in use in Michigan containing Nonconforming Clauses must attach to that certification a PDF version of each policy form on its list, with the Nonconforming Clause or Clauses highlighted.

WHEN SUBMITTING A CERTIFICATION:

1. Email it to OFIR as a separate PDF attachment. There should be only one certification per NAIC-numbered insurer covering every line of insurance that insurer writes.
2. For certifications reporting forms in use containing Nonconforming Clauses, provide only one list in the format of the sample above, including all lines of insurance, and adding, also in PDF format, all policy forms with the Nonconforming Clause or Clauses highlighted.

3. Certifications reporting no forms and certifications reporting forms in use with the forms attached should not be filed with SERFF. Rather, they should be emailed to the appropriate address as follows:

All Property & Casualty, Title, and **non**-Life/Health/Fraternal insurer certifications and forms should be sent in PDF format to:

OFIR-PCnonconformingclause@michigan.gov.

All Life/Health/Fraternal insurer certifications and forms should be sent in PDF format to:

OFIR-LHnonconformingclause@michigan.gov.

RESPONSE REQUIRED:

The direction to submit all forms containing nonconforming clauses by **September 1, 2010**, i.e. at the same time as the certifications required by R 500.2232, is made pursuant to MCL 500.438(3), which authorizes the Commissioner to address inquiries to any insurer in relation to the insurer's activities, or any matter connected with the insurer's transactions, and requires an insurer to reply promptly in writing to the Commissioner. Since insurers must review forms to file the certifications required, the Commissioner has determined that filing the forms and certifications at the same time will eliminate duplication of effort by insurers and OFIR staff. Failure to respond to a Commissioner inquiry under MCL 500.438(3) by the deadline set may subject an insurer to the penalties specified in MCL 500.438(5) and may ultimately result in revocation of authority to do business in Michigan under MCL 500.436.

Any questions regarding the certifications or filings required by the Nonconforming Clause Administrative Rules should be directed to:

Khapre Staton at statonk@michigan.gov or 517-241-8253 (for all Property & Casualty, Title, and **non**-Life/Health/Fraternal insurance).

Renee Campbell at campbellr2@michigan.gov or 517-373-2671 (for all Life/Health/Fraternal insurance).

You may also reach OFIR toll free at 877-999-6442.